

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEVIN GAMBLE,

Plaintiff,

AFFIRMATION

9:05-CV-1097
(TJM)(GJD)

-against-

J. ISAACS,

Defendant.

MARIA MORAN, being a duly licensed attorney, in the State of New York and an Assistant Attorney General in the offices of Eliot Spitzer, Attorney General of the State of New York, does hereby affirm under the penalties of perjury:

1. I am an Assistant Attorney General and appear in this action on behalf of Eliot Spitzer, Attorney General of the State of New York, the attorney for the defendant.

2. I am familiar with the pleadings heretofore and make this affirmation in support of defendant's motion to dismiss.

3. In his amended complaint, the plaintiff alleges that the defendant, Corrections Officer J. Isaacs, violated his civil and/or Constitutional rights while he was incarcerated at Elmira Correctional Facility, which is located in Elmira, New York.

4. The defendant moves to dismiss the complaint on the ground that venue in the Northern District is improper. In the alternative, it is requested that the action be transferred to the Western District of New York for all future proceedings, as Elmira Correctional Facility, which is located in Chemung County, is within that jurisdiction.

WHEREFORE, the defendant respectfully requests that defendant's motion to dismiss be granted in its entirety and that the relief sought by plaintiff be denied.

Dated: Syracuse, New York
January 30, 2006

ELIOT SPITZER
Attorney General of the State of
New York
Attorney for the Defendant

BY: s/Maria Moran
MARIA MORAN
Assistant Attorney General, of Counsel
Bar Roll No. 302287
615 Erie Boulevard West, Suite 102
Syracuse, New York 13204-2465
Telephone: (315) 448-4800
Fax: (315) 448-4851 (not for service of papers)

TO: Kevin Gamble
Plaintiff *pro se*